



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,051	04/10/2004	Ronald John Rosenberger		2238

7590
Ronald Rosenberger
506 Sterling St.
Newtown, PA 18940

04/16/2009

EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 04/16/2009

Please find below and/or attached an Office communication concerning this application or proceeding.

<i>Notification of Non-Compliant Appeal Brief (37 CFR 41.37)</i>	Application No. 10/822,051	Applicant(s) ROSENBERGER, RONALD JOHN	
	Examiner /Ted Kavanaugh/	Art Unit 3728	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 15 March 2008 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and **relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

The Brief if not fully responsive to the final office action mailed March 27, 2006. In Appellant's brief, he is attempting to overcome the drawing objection by stating "Figure 1 will be canceled to obviate this rejection", page 7, line 16. In response, Appellant saying that he will cancel something is not the same as actually sending in an amendment to cancel the figure. Nonetheless, such a response is not proper since figure 1 was initially sent in on 3/14/2006 to overcome the examiner's drawing objection given in the office action mailed 3/27/2006. In view of figure 1 being sent in some but not all of the drawing objections where overcome. However, the drawings did raise new matter. If applicant cancels figure 1 the other drawing objections would be reinstated and at this point of prosecution this can not be done. If applicant still wishes for this application to go the Board of Appeals, he must resolve the drawing objection and in order to do this applicant must file a petition to decide the drawing objection raised in the office action mailed March 27, 2006. Additional drawings and cancelling of drawings would not be permitted at this point of prosecution. To overcome some indefinite language, appellant states "Appellant will delete the objected-to term 'etc.' to obviate this rejection, rendering this rejection moot. As noted above, Appellant saying something is not the same as actually doing it. This must be done in a separate amendment to which the examiner will respond to. The examiner has fully looked over the Appeal Brief but these defects are not to be construed as a complete list in view of the numerous defects found. Examination of the application reveals that applicant is unfamiliar with patent prosecution procedure, if applicant still wishes to prosecute this application he is strongly encourage to secure the services of a registered patent attorney or agent. A list of registered patent attorneys and against can be found at the USPTO web site <http://www.uspto.gov>. In view of the drawing objections, it is the examiner's opinion, that they can not be overcome and/or any such changes would introduce new matter. Therefore, if applicant still wishes to prosecute this application, the examiner suggest filing a Continuation-in-part application with new drawings and corresponding amendments to the specification and claims. See paragraph #16 in the office action filed 3/27/2006.